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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,692	03/09/2004	Colby Nash	FY.51040US1A	2923
20995	7590	10/13/2006	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			BROWN, DREW J	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/796,692	NASH ET AL.	
	Examiner	Art Unit	
	Drew J. Brown	3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 8/06/06 (amendment).
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2 and 4-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 23-31 and 33 is/are allowed.
- 6) Claim(s) 1,2 and 4-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/3/06</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The Office Action is in response to the amendment filed on 8/16/06. Claims 1, 2, 4, 7, 10, 11, 13-17, 21, 23-25, 27, and 29-31 have been amended. Claim 2 has been canceled.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsukahara et al. (U.S. Pat. No. 4,735,275).

With respect to claim 18, an off-road vehicle comprises a frame (Sf), at least one wheel (Wf), and a suspension arm (column 3, lines 5-10) configured to suspend the wheel from the frame, the frame including a set of vertical members extending generally vertically, the vertical members spaced apart from each other fore to aft, wherein the suspension arm is coupled to the vertical members in a manner permitting the suspension arm to swing relative to the frame. The first vertical member is considered to comprise brackets (1) and (3), and part of front side (U) located between the brackets. The second vertical member is considered to comprise brackets (2) and (4), and part of downpipe (D) and portions of horizontal frame members (Sw) and (Lw) that extend between the brackets.

With respect to claim 19, the frame additionally includes first (Sf) and second (Lf) horizontal members that extend generally horizontally fore to aft to support the vertical members.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4-17, 20-22, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsukahara et al. in view of Lee (U.S. Pat. No. 5,431,429).

With respect to claim 1 and 32, Tsukahara et al. discloses an off-road vehicle comprises a frame (F), at least one wheel (Wf), and first and second suspension arms (column 3, lines 5-10), each including a plurality of ends and being configured to suspend the wheel from the frame, the frame including two horizontal members (Sf and Lf) extending generally horizontally fore to aft, the vehicle further comprising first and second sets of retainers (first set: 1 and 2; second set: 3 and 4) being coupled to the horizontal member, the retainers of the first set being spaced apart from each other fore to aft at a first distance, the retainers of the second set being spaced apart from each other fore to aft at a second distance, wherein each retainer of a respective set is configured to retain one of the ends of a respective suspension arm in a manner permitting the respective suspension arm to swing relative to the respective set of retainers (Figure 4).

Tsukahara does not disclose that the first and second distances are not equal. However, Lee discloses that the mount members of the first and second set of mount members (first set: 11; second set: 21) are spaced apart at different distances. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Tsukahara et al. in view of the teachings of Lee to have two sets of retainers, where the retainers of the first set are spaced at a different distance than the retainers of the second set so that the off-road vehicle can have first and second suspension arms having different sizes, which enables the vehicle to have desired suspension characteristics.

With respect to claims 4, 17, and 20, Tsukahara et al. discloses the claimed invention as discussed above and that a second suspension arm is spaced apart from the first suspension arm generally in the vertical direction (column 3, lines 5-10), where support/vertical members swingably retain the second suspension arm therebetween. Tsukahara et al. discloses a set of support members (first support member comprises brackets (1) and (3), and part of front side (U) located between the brackets; second support member comprises brackets (2) and (4), and part of downpipe (D) and portions of horizontal frame members (Sw) and (Lw) that extend between the brackets) extending generally vertically and spaced apart fore to aft, and wherein each of the

retainers of the second set is placed on a respective one of the support members, but does not disclose a link coupling the first and second suspension arms with each other, where the link is coupled to the wheel.

Lee, however, does disclose a link (1) that couples first and second suspension arms (10 and 20), where the link is coupled to a wheel (2).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Tsukahara et al. in view of the teachings of Lee to have a link coupling the suspension arms together, and further being coupled to the wheel, so the two suspension arms will swing together relative to the frame in order to provide optimal comfort for the passengers by absorbing the shock caused by the off-road terrain.

With respect to claim 2, Tsukahara et al. discloses that the retainers extend generally vertically relative to the horizontal member (Figure 4).

With respect to claims 5 and 21, Tsukahara et al. discloses that the tops of the retainers/vertical members are inclined outward relative to a longitudinal center plane of the frame, which extends generally vertically and fore to aft (Figure 4).

With respect to claims 6 and 22, Lee discloses that the first (10) suspension arm is disposed above the second suspension arm (20), and the second suspension arm is longer than the first suspension arm.

With respect to claim 7, Tsukahara et al. discloses that each one of the retainers has first (left flanges containing mounting holes in the retainers) and second (right flanges containing mounting holes in the retainers) surfaces opposing each other, and Lee discloses that each end of the suspension arm comprises a mount member (11) and that each one of the mount members is journaled between the first and second surfaces of one of the retainers (Figure 2).

With respect to claim 8, Tsukahara et al. discloses that the first and second surfaces extend generally vertically.

With respect to claim 9, Tsukahara et al. discloses that the first and second surfaces extend outward from the horizontal member relative to a longitudinal center plane of the frame, which extends generally vertically fore to aft (Figure 4).

With respect to claim 10, Tsukahara et al. discloses that the first and second surfaces extend outward from the horizontal member relative to a longitudinal center plane of the frame, which extends generally vertically and fore to aft (Figure 4).

With respect to claim 11, Tsukahara et al. discloses that each one end of the first and second surfaces is connected to the horizontal member (Figure 4).

With respect to claims 12 and 13, Tsukahara et al. discloses that the mount members are positioned at different elevations relative to each other. The mount members retained within the portions (1 and 3) are positioned higher than the mount members retained within the portions (2 and 4).

With respect to claim 14, Tsukahara et al. discloses that the respective ones of the retainers are connected to the respective horizontal member (Figure 4).

With respect to claim 15, Tsukahara et al. discloses that at least of the two horizontal members (Sf) has a vertical surface (outer surface edge of member Sf) extending generally vertically, and the respective retainers are at least partially connected to the vertical surface (Figure 4).

With respect to claim 16, Tsukahara et al. discloses that the at least one of the two horizontal members (Sf) is a rectangular parallelepiped member (Figure 4).

Allowable Subject Matter

5. Claims 23-31 and 33 are allowed.

Response to Arguments

6. Applicant's arguments filed on 8/16/06 have been fully considered but they are not persuasive.

On page 18 Applicant argues that Tsukahara et al. discloses individual brackets that are fixedly mounted to the frame at a given position, and that the brackets support only one end of only one suspension arm instead of being able to support first ends of both upper and lower suspension arms. However, the Examiner notes that the brackets are not individual brackets, but form vertical members as discussed above. The first vertical member is considered to comprise brackets (1) and (3), and part of front side (U) located between the brackets. The second vertical

member is considered to comprise brackets (2) and (4), and part of downpipe (D) and portions of horizontal frame members (Sw) and (Lw) that extend between the brackets. Therefore, the brackets are able to support first ends of both upper and lower suspension arms.

7. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew J. Brown whose telephone number is 571-272-1362. The examiner can normally be reached on Monday-Thursday from 8 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Drew J. Brown
Examiner
Art Unit 3616

db
10/2/06


10/11/06
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